

Payment Bond

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 0000-0000
(exp. 00/00/00)

Office of Housing

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CONTRACTOR/PRINCIPAL (Name and Address):

LENDER (Name and Address):

OWNER (Name and Address):

SURETY (Name and Principal Place of Business):

PROJECT (Name, FHA Number and Location):

CONSTRUCTION CONTRACT:

Date:

Amount:

BOND:

Date:

Amount:

RIDERS TO THIS BOND: ____ Yes ____ No

This Payment Bond ("Bond") is issued simultaneously with a Performance Bond-Dual Obligee (the "Performance Bond") issued in connection with the Project. As used herein, "Obligees" shall mean Owner and the additional

obligee(s), if any, identified in a Rider to this Bond and "Obligee" shall mean any of the Obligees.

1. Contractor has entered into a construction contract with Owner for the construction of the above-named Project. The construction contract (as the same may now or hereafter be amended by change order or otherwise) is made a part hereof by reference, and is hereinafter referred to as the "Contract."

2. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns, to Obligees, for the use and benefit of Claimants as hereinafter defined, in the sum of

_____ Dollars (\$ _____), to pay

for labor, materials and equipment furnished for use in the performance of the Contract. Any approved increase in the total Contract price would increase the monetary obligation of the Obligors accordingly.

3. This obligation shall be null and void if the Contractor promptly makes payment to all Claimants for all labor, material, or equipment used in the performance of the Contract.

4. Contractor and Surety hereby jointly and severally agree with Obligees that every Claimant, who has not been paid in full before the expiration of a period of ninety (90) days after having last performed labor or last furnished materials or equipment, may sue on this Bond for the use of such Claimant, prosecute the suit to final judgment for such sum or sums as may be justly due Claimant, and have execution thereon. No Obligee shall be liable for the payment of any costs or expenses of any such suit.

5. Surety shall have no obligation to Claimants under this Bond unless:

- a. Claimants who do not have a direct contract with the Contractor have given notice to any two (2) of the above-named parties, Contractor, Owner or Surety, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the claim, stating that a claim is being made under this Bond and, with substantial accuracy, the amount claimed and the name of the party to whom the materials or equipment were furnished, or for whom the work or labor was done or performed.
 - b. Any suit, action or proceeding brought by a Claimant under this Bond shall be instituted within one (1) year from the date (i) on which the Claimant gave the notice required by Paragraph 5a, or (ii) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever occurs later. If this limitation is deemed to be in contravention of any controlling law, this Bond is deemed amended so as to be equal to the minimum period of limitation permitted by such law.
6. The amount of this Bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens that may be filed of record against said Project, whether or not the claim for the amount of such lien is presented under and against this Bond. Notwithstanding the foregoing, no amounts paid to Owner without the written consent of Lender shall reduce the liability of Surety to Lender under this Bond.
7. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.
8. Notice to the Surety, Owner, or Contractor shall be served by mailing the same by registered mail or certified mail, postage prepaid, to the address shown on this Bond or to such other address as may have been previously specified by the recipient in a notice given in accordance herewith.
9. A Claimant is defined as one having a direct contract with Contractor or with a subcontractor of Contractor for labor, materials or equipment used in the

performance of the Contract, including without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment was furnished.

SIGNED and SEALED this _____ day of _____, 20__.

Witness as to Contractor:

CONTRACTOR:

By: _____

Name and Title (Printed)

SURETY:

By: _____

Name and Title (Printed)

Project Name: _____
 Project Number: _____

ADDITIONAL OBLIGEE RIDER

(Additional obligee only allowed with prior HUD approval as indicated below.)

1. This additional Obligor Rider is attached to and made a part of that certain Payment Bond (the "Payment Bond"), dated _____, 20__ executed and delivered by _____, as Contractor, and _____, as Surety, in favor of Obligees, in the sum of _____ (\$_____) with respect to the Project referenced above.

2. All of the terms, conditions and provisions of the Payment Bond are hereby incorporated herein by this reference as if fully set forth herein.

3. All defined terms as set forth in the Payment Bond shall have the same meaning herein.

4. _____ is hereby added to the Payment Bond as an additional named Obligor.

5. Nothing herein shall alter or affect any of the terms, conditions and other provisions of the Payment Bond, including especially but without limitation, the aggregate liability of Surety as described in paragraph 2 of the Payment Bond.

Signed and sealed this _____ day of _____, 20__.

Witness as to Contractor:

CONTRACTOR: _____

By: _____

 Name and Title (Printed)

SURETY: _____

By: _____

 Name and Title (Printed)

Project Name: _____
 Project Number: _____

ADDITIONAL SURETY RIDER

(Additional surety only allowed with prior HUD approval as indicated below.)

1. This Additional Surety Rider is attached to and made a part of that certain Payment Bond (hereinafter "Payment Bond"), dated _____, 20__ executed and delivered by _____, as Contractor, and _____, as Surety, in favor of Obligees, in the sum of _____ (\$_____) with respect to the Project referenced above.
2. All of the terms, conditions and provisions of the Payment Bond are hereby incorporated herein by this reference as if fully set forth herein.
3. All defined terms as set forth in the Payment Bond shall have the same meaning herein.
4. _____ (the "Additional Surety") is hereby added to the Payment Bond as an additional named surety.
5. Each surety and additional surety (hereinafter collectively called "Surety") is held and firmly bound, jointly and severally, onto Obligees. Further, each undersigned Surety binds itself in the aforesaid full sum, "jointly and severally," as well as "severally" for the purpose of allowing joint action or singular actions against any or all of them in the full amount of this Payment Bond and for all other purposes each Surety binds itself, jointly and severally with Contractor, for the payment of the full sums above stated. All references in the Payment Bond to "Surety" shall include the Additional Surety.
6. Nothing herein shall alter or affect any of the terms, conditions and other provisions of the Payment Bond, including especially but without limitation, the aggregate liability of the Surety as described in paragraph 2 of the Payment Bond.

SIGNED AND SEALED this _____ day of _____, 20__.

Witness as to Contractor:

CONTRACTOR:

By: _____

Name and Title (Printed)

SURETY:

By: _____

Name and Title (Printed)

Approved by the United States Department of Housing and Urban Development

By: _____
